

REMARKS

The Office Action dated July 20, 2007 has been carefully reviewed and the following remarks are made in consequence thereof.

Claims 29-31 are pending in this application. Claims 1-28 stand rejected. Claims 1-28 have been canceled.

Initially, Applicants respectfully submit that, on Page 1 of the Office Action, the drawings submitted July 9, 2004, are neither accepted nor objected to. As such, Applicants respectfully request that Examiner acknowledge acceptance of the drawings submitted July 9, 2004.

Applicants thank the Examiner for identifying that “[i]f applicant desires to claim the benefit of a prior-filed application . . . a specific reference to the prior-filed application . . . must be included in the first sentence(s) of the specification” Because the filing receipt mailed June 3, 2005 recognizes the claim of priority, Applicants have amended the specification to include a claim for priority as suggested in the Office Action.

The statutory double patenting rejection of Claims 1-28 under 35 U.S.C. 101, as claiming the same invention as that of Claims 1-28 of prior U.S. Patent No. 6,443,329 (“the ‘329 patent”) is respectfully traversed. Claims 1-28 have been canceled. For at least the reasons set forth above, Applicants respectfully request that the Section 101 statutory double patenting rejection of Claims 1-28 be withdrawn.

The rejection of Claims 29-31 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over Claims 1, 15, and 28 of the ‘329 patent in view of Arasim (U.S. Patent No. 5,341,923) is respectfully traversed.

Applicants respectfully traverse the Examiner’s assessment of the differences between the claimed invention and the ‘329 patent. Under the proper analysis for obviousness type double patenting, the claims of the commonly owned U.S. Patent No. 6,443,329 must be compared with the claims of the present application, and the commonly owned patent is not prior art to the pending claims. The sole inquiry is whether the claims in the instant application would be obvious over the claims of the commonly owned patents. See MPEP §

804. The claims must be considered in their entirety in making an obviousness determination.

Considering only the claims of the '329 patent and the pending claims in the present application, differences are believed to be evident. As acknowledge on page 5 of the Office Action, the '329 patent does not describe "that the hanging support structure comprises at least one hanging aperture disposed in a wall of the tubular body."

Furthermore, Applicants submit that the pending claims are patentably distinct from Claims 1, 15, and 28 of the '329 patent. For example, amended independent Claim 29 of the present application essentially recites "hanging support structure comprises at least one hanging aperture disposed in a wall of the tubular body," which is not found in Claims 1, 15, and 28 of the '329 patent. Further, amended independent Claim 30 of the present application essentially recites "at least one hanging aperture, disposed in one of at least three substantially rectangular side wall panels," wherein the side wall panels form, in part, a generally tubular body having an opening in an upper portion of the generally tubular body, which is not found in Claims 1, 15, and 28 of the '329 patent.

Applicants respectfully submit that the recitations of subject matter not found in Claims 1, 15, and 28 of the '329 patent is not obvious and is patentably distinct from Claims 1, 15, and 28 of the '329 patent. Considering only the claims of the '329 patent, as the obviousness-type double patenting analysis requires, it would not have been obvious to one of ordinary skill in the art would to omit certain recitations and to include other recitations in a manner that would have resulted in the present claims. Accordingly, it is submitted that the present claims are not obvious over Claims 1, 15, and 28 of the '329 patent.

Moreover, neither claims 1, 15, and 28 of the '329 patent nor Arasim, considered alone or in combination, describes or suggests the a dispensing container as recited in the presently pending claims. More specifically, the '329 patent is described above, and Arasim describes a projecting suspension panel (22) that extends from a major side panel (12) and includes an aperture (38) defined therethrough.

Claim 29 recites a dispensing container, operably configured to be suspended from a support for the facilitated dispensing of fluent material, the dispensing container comprising "a generally tubular body . . . a nozzle receiving structure, operably disposed in the bottom dispensing region, for securely but releasably, restrainedly receiving a dispensing nozzle . . .

and a hanging support structure, operably connected to the tubular body, to enable the dispensing container to be removably hung upon and supported by a projecting support member, wherein the hanging support structure comprises at least one hanging aperture disposed in a wall of the tubular body....”

More specifically, neither claims 1, 15, and 28 of the ‘329 patent nor Arasim, considered alone or in combination, describes or suggests a dispensing container that includes a hanging support structure, operably connected to the tubular body, to enable the dispensing container to be removably hung upon and supported by a projecting support member, wherein the hanging support structure comprises at least one hanging aperture disposed in a wall of the tubular body. Accordingly, for at least the reasons set forth above, Claim 29 is submitted to be patentable over Claims 1, 15, and 28 of the ‘329 patent in view of Arasim.

Moreover, neither claims 1, 15, and 28 of the ‘329 patent nor Arasim, considered alone or in combination, describes or suggests the a blank for forming a dispensing container as recited in Claim 30, which recites a blank for forming a dispensing container, operably configured to be suspended from a support for the facilitated dispensing of fluent material, the blank comprising “a plurality of at least three substantially rectangular side wall panels, operably connected to one another along longitudinally extending lines of weakness extending between adjacent ones of the side wall panels . . . to form, in part, a generally tubular body having an opening in an upper portion of the generally tubular body; at least one top closure panel . . . a plurality of bottom panels . . . to enable the formation of a bottom dispensing region . . . the plurality of at least three side wall panels, the at least one top closure panel, and the plurality of bottom panels collectively forming the generally tubular body . . . a nozzle receiving structure, operably disposed in at least one of the bottom panels, for securely but releasably, restrainedly receiving a dispensing nozzle . . . and at least one hanging aperture, disposed in one of the at least three substantially rectangular side wall panels....”

More specifically, neither claims 1, 15, and 28 of the ‘329 patent nor Arasim, considered alone or in combination, describes or suggests a blank for forming a dispensing container that includes at least one hanging aperture, disposed in one of at least three substantially rectangular side wall panels, wherein the side wall panels form, in part, a generally tubular body having an opening in an upper portion of the generally tubular body.

Accordingly, for at least the reasons set forth above, Claim 30 is submitted to be patentable over Claims 1, 15, and 28 of the '329 patent in view of Arasim.

Claim 31 depends from independent Claim 30. When the recitations of Claim 31 are considered in combination with the recitations of Claim 30, Applicants submit that dependent Claim 31 likewise is patentable over Claims 1, 15, and 28 of the '329 patent in view of Arasim.

For at least the reasons set for above, Applicants respectfully request that the non-statutory obviousness-type double patenting rejection of Claims 29-31 be withdrawn.

In view of the foregoing amendment and remarks, all the claims now active in this application are believed to be in condition for allowance. Reconsideration and favorable action is respectfully requested.

Respectfully Submitted,



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